

## REMARKS

In the Office Action, the Examiner objected to the drawings because the reference character 190 referred to two elements and the referenced integrated packet bus 210 was not shown in the drawings. A replacement drawing that removes one instance of the reference character 190 and references the integrated packet bus 210 has been submitted herein. Applicants respectfully request that the Examiner's objection to the drawings be withdrawn.

Claims 1-61 are pending in the present application.

In the Office Action, the Examiner objected to claim 15 because the phrase "adapted to" was repeated. Claim 15 has been amended to correct this typographical error. Claim 15 has in no way been narrowed by virtue of this amendment and so this amendment should not be interpreted as narrowing the claimed invention for purposes of any determination under the doctrine of equivalents. Applicants respectfully request that the Examiner's objection to claim 15 be withdrawn.

In the Office Action, claims 3, 17, 28, 35, and 47 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 3, 17, 28, 35, and 47 have been amended to correct typographical errors in these claims and provide antecedent basis for the limitations identified by the Examiner. The claims have in no way been narrowed by virtue of these amendments and so these amendments should not be interpreted as narrowing the claimed invention for purposes of any determination under the doctrine of equivalents. Applicant respectfully requests that the Examiner's rejections of claims 3, 17, 28, 35, and 47 under 35 U.S.C. § 112, second paragraph, be withdrawn.

In the Office Action, claims 1-5, 10-12, 49-54, and 56-59 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Laczko, et al (U.S. Patent No. 6,775,778). The Examiner's rejections are respectfully traversed.

Laczko describes a central processing unit 131 that includes digital signal processing capabilities so that the central processing unit 131 can operate as a software cable modem and/or voice band modem. See Laczko, col. 4, ll. 30-37. The Examiner alleges that the central processing unit 131 constitutes a driver because it is used to power or control other programs, circuits, or devices. However, Laczko does not teach or suggest loading a secure driver for interfacing with the physical layer hardware, as set forth in independent claims 1 and 49. As defined in the specification, a secure driver is a driver that is loaded from a secure location during initialization. See Patent Application, page 13, ll. 1-2. For example, the secure driver may be stored as a a digitally signed file, as set forth in claim 2, or the secure driver may be loaded from a secure program storage device, as set forth in claim 3. Examples of secure drivers are discussed in detail in the specification. See Patent Application, page 13, line 8 – page 14, line 16.

For at least this reason, Applicants respectfully submit that the present invention is not anticipated by Laczko and request that the Examiner's rejections of claims 1-5, 10-12, 49-54, and 56-59 under 35 U.S.C. 102(e) be withdrawn.

In the Office Action, claims 15-19, 23, 25, 26-30, 34, 36, 37-41, 46, and 48 were rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Bialick, et al (U.S. Patent No. 6,088,802). The Examiner's rejections are respectfully traversed.

Bialick is concerned with enabling a peripheral device to perform security operations, such as encryption of data. Bialick describes a peripheral device driver that enables the use of

the peripheral device. The Examiner alleges that the peripheral device driver described by Bialick is a secure device driver that may be loaded by a processor complex. Applicants respectfully disagree and note that, contrary to the Examiner's allegations, Bialick teaches that a host computing device automatically provides the user with the opportunity to instruct the host computing device to transfer the peripheral device driver from the peripheral device to the host computing device. Accordingly, Applicants respectfully submit that the peripheral device driver described by Bialick is not a secure device driver, as defined in the specification and set forth in independent claims 15, 26, and 37.

For at least this reason, Applicants respectfully submit that the present invention is not anticipated by Bialick and request that the Examiner's rejections of claims 15-19, 23, 25, 26-30, 34, 36, 37-41, 46, and 48 under 35 U.S.C. 102(a) be withdrawn.

In the Office Action, claims 6-9, 14, 55, and 61 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Laczko in view of Bialick. The Examiner's rejections are respectfully traversed.

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). Claims 6-9 and 14 depend from independent claim 1 and claims 55 and 61 depend from independent claim 49. As discussed above, Laczko does not teach or suggest loading a secure driver for interfacing with the physical layer hardware, as set forth in independent claims 1 and 49. Bialick also fails to teach or suggest loading a secure driver. Thus, Applicants respectfully submit that the cited references fail to teach or suggest all the limitations of the claimed invention.

Furthermore, the cited references provide no suggestion or motivation to modify the prior art record to arrive at the claimed invention. To the contrary, Bialick teaches away from loading a secure driver by teaching that the host computing device automatically provides the user with the opportunity to instruct the host computing device to transfer the peripheral device driver from the peripheral device to the host computing device. It is by now well established that teaching away by the prior art constitutes *prima facie* evidence that the claimed invention is not obvious. *See, inter alia, In re Fine*, 5 U.S.P.Q.2d (BNA) 1596, 1599 (Fed. Cir. 1988); *In re Nielson*, 2 U.S.P.Q.2d (BNA) 1525, 1528 (Fed. Cir. 1987); *In re Hedges*, 228 U.S.P.Q. (BNA) 685, 687 (Fed. Cir. 1986).

For at least the aforementioned reasons, Applicants respectfully submit that the Examiner has failed to make a *prima facie* case that the present invention is obvious over Laczko in view of Bialick. Applicants request that the Examiner's rejections of claims 6-9, 14, 55, and 61 under 35 U.S.C. 103(a) be withdrawn.

In the Office Action, claims 13-14 and 60-61 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Laczko in view of Novoa, et al (U.S. Patent No. 6,223,284). The Examiner's rejections are respectfully traversed.

Claims 13-14 depend from independent claim 1 and claims 60-61 depend from independent claim 49. As discussed above, Laczko does not teach or suggest loading a secure driver for interfacing with the physical layer hardware, as set forth in independent claims 1 and 49. Novoa describes providing an authentication key over a communication channel. However, Novoa does not remedy the fundamental deficiency of Laczko. Thus, Applicants respectfully submit that the Examiner has failed to make a *prima facie* case that the present invention is

obvious over Laczko in view of Novoa. Applicants request that the Examiner's rejections of claims 13-14 and 60-61 under 35 U.S.C. 103(a) be withdrawn.

In the Office Action, claims 20-22, 31-33, and 42-45 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bialick in view of Laczko. The Examiner's rejections are respectfully traversed.

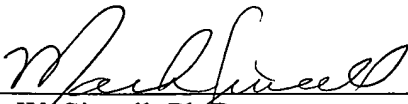
Claims 20-22 depend from independent claim 15, claims 31-33 depend from independent claim 26, and claims 42-45 depend from independent claim 37. As discussed above, neither Bialick nor Laczko teach or suggest loading a secure driver, as set forth in independent claims 15, 26, and 37. Thus, Applicants respectfully submit that the cited references fail to teach or suggest all the limitations of the claimed invention. Furthermore, the cited references provide no suggestion or motivation to modify the prior art record to arrive at the claimed invention. To the contrary, Bialick teaches away from loading a secure driver by teaching that the host computing device automatically provides the user with the opportunity to instruct the host computing device to transfer the peripheral device driver from the peripheral device to the host computing device.

For at least the aforementioned reasons, Applicants respectfully submit that the Examiner has failed to make a *prima facie* case that the present invention is obvious over Laczko in view of Bialick. Applicants request that the Examiner's rejections of claims 6-9, 14, 55, and 61 under 35 U.S.C. 103(a) be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

Date: 4/22/05

  
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